



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/437,304	11/09/1999	FRANKLIN E. BOYER	UV-112	7797

7590 10/30/2003

G VICTOR TREYZ
FISH AND NEAVE
1251 AVENUE OF THE AMERICAS
NEW YORK, NY 100201104

EXAMINER

NGUYEN, QUANG N

ART UNIT	PAPER NUMBER
----------	--------------

2141

14

DATE MAILED: 10/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

dl R

Office Action Summary

Application No.

09/437,304

Applicant(s)

BOYER ET AL.

Examiner

Quang N. Nguyen

Art Unit

2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09/26/2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-16, 18-27 and 29-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-16, 18-27 and 29-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01/02/2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

1. This Office Action is in response to the Amendment C filed on 09/26/2003. Claims 1-5, 7-16, 18-27 and 29-33 are presented for examination. Claims 1, 12, and 23 have been amended.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1-2, 12-13 and 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schein et al. (US 6,388,714), herein after referred as Schein, in view of Gerace (US 5,848,396).**

4. As to claims 1-2, Schein discloses a system and method for providing television schedule information and for allowing a viewer to retrieve, initiate a subscription to, search, select and interact with information located in a remote database, computer

network or on-line service, such as a network server on the Internet or World Wide Web comprising:

providing the user with an opportunity to select at least one desired television genre from a plurality of available television genres (Schein, C14: L66 – C15: L63);

providing the user with an opportunity to select at least one desired television-related information source from a plurality of television-related information sources, wherein the opportunity to select the desired television genre is a separate opportunity from the opportunity from the opportunity to select the desired television-related information source (Schein, Fig. 2 and corresponding text, C5: L50-65);

providing a grid of television program listings on the web page including television program times, television channels, and television program titles, wherein the television program listings in the grid are based on the selected television genre and are obtained from the selected television-related information source (Schein, Fig. 2 and corresponding text, C5: L50-65).

However, Schein does not explicitly teach the steps of providing the user with an opportunity to select at least one desired non-television-related information source from a plurality of non-television-related information sources for providing schedule information for non-televised events that includes event titles on the same web page.

In the related art, Gerace teaches a system and method for displaying customized agate information with an opportunity for the user to select at least one desired non-television-related information source from a plurality of non-television-related information sources (e.g., film and live performance listings) for providing

schedule information for non-televised events that includes event titles (e.g., Show title, Show times) on the same web page (i.e., the Media Schedule Page) (Gerace, C10: L9-22 and C26: L40-63).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify and combine the teachings of Schein and Gerace to provide on the same web page a region of schedule information for non-televised events that includes event titles for the user to select because it would allow the user/viewer to link, search, select, retrieve, initiate a subscription to and interact with information in a remote database, computer network or on-line server, e.g., a network server on the Internet or World Wide Web (Schein, C3: L54-60) and also enable the data assembly to customize presentation (format) of agate information, per user, for display to the user (Gerace, C2: L1-29).

5. Claims 12-13 are corresponding on-line scheduling application system claims of claims 1-2; therefore, they are rejected under the same rationale.

6. Claims 23-24 are corresponding on-line scheduling application system claims of claims 1-2; therefore, they are rejected under the same rationale.

7. Claims 3-5, 8-11, 14-16, 19-22, 25-27 and 30-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schein, in view of Gerace, and further in view of Bisdikian et al. (US 5,974,406), herein after referred as Bisdikian.

Art Unit: 2141

8. As to claims 3-4, Schein-Gerace teaches the method as in claim 1, but does not explicitly teach the capability of delivering the television program listings and non-television-related schedule information to the user using at least one delivery scheme from a plurality of delivery schemes consisting of continuous delivery, e-mail, pager/digital phone reminder, and pager/digital phone notification.

In the related art, Bisdikian teaches a method and apparatus for providing customized notification in response to a search query received from a user who also selected a time and preferred means of notification, for example, potential means of notification include, but not limited to, email, telephone, fax, beeper, etc. at either at a regular time and/or a specified time such as upon finding a match or after a maximum search time-horizon has elapsed (Bisdikian, C2: L19-52, C4: L22-31 and C5: L54-65).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify and combine the teachings of Schein-Gerace and Bisdikian to deliver the schedule information using at least one delivery scheme from a plurality of delivery schemes consisting of continuous delivery, e-mail, pager/digital phone reminder, and pager/digital phone notification because it would allow the system to deliver/transmit the television listings, non-television-related schedule information and notifications by various communication means at convenient times (e.g., a regular time or a specified time such as whenever special events or new information are available, or an update of a stock price change) according to the user preference/profile (Bisdikian, C2: L19-52).

9. Claims 5 and 8-11 are corresponding method claims of claims 1-4; therefore, they are rejected under the same rationale.

10. Claims 14-16 and 19-22 are corresponding system claims of claims 3-5 and 8-11; therefore, they are rejected under the same rationale.

11. Claims 25-27 and 30-33 are corresponding system claims of claims 3-5 and 8-11; therefore, they are rejected under the same rationale.

12. Claims 7, 18 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schein-Gerace, in view of Bisdikian, and further in view of Buhrmann et al. (US 5,933,778), herein after referred as Buhrmann.

13. As to claim 7, Schein-Gerace-Bisdikian teaches the method as in claim 5, but does not explicitly teach the step of providing the user with an opportunity to setup a date book, and at least one web page containing scheduling information obtained by the scheduling application from the date book.

In the related art, Buhrmann teaches a system and method for updating a telecommunication subscriber profile by entering personal information data comprising schedule data (date book) describing timed events (e.g., meeting times, appointments, etc.) and contact data describing user contacts (e.g., name, address, phone number, etc.) into a personal information manager (PIM); and for providing the subscriber call

Art Unit: 2141

completion services and message reminder services based on the subscriber profile (Buhrmann, C3: L42-64, C4: L18-27, C6: L43-52, C11: L34-67, C12: L1-17, L55-67, and C13: L1-10).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify and combine the teachings of Schein-Gerace-Bisdikian and Buhrmann to provide the user with an opportunity to setup a date book, and at least one web page containing scheduling information obtained by the scheduling application from the date book because it would allow user to receive update scheduled data whenever special events or new information are available and alert messages to remind the user about these scheduled events.

14. Claim 18 is a corresponding system claim of claim 7; therefore, it is rejected under the same rationale.

15. Claim 29 is a corresponding system claim of claim 7; therefore, it is rejected under the same rationale.

Response to Arguments

16. In the remarks, applicant argued in substance that

(A) Prior Art does not show or suggest allowing users to “***select*** at least one desired non-television-related information source” and “providing schedule information for non-televised events ... ***on the same web page***” as television program listings, as required by applicant’s claims 1, 2, and 23.

As to point (A), **Gerace** teaches a system and method for displaying customized agate information with an opportunity for the user to ***select*** at least one desired non-television-related information source from a plurality of non-television-related information sources (e.g., film and live performance listings such as Theater, Opera, Symphony) and providing schedule information for non-televised events that includes event titles (e.g., Theater, Show title, Show times, and Director) ***on the same web page*** (i.e., the Media Schedule Page) as television program listings under TV Table of the Media Schedule Page (**Gerace**, C10: L9-22 and C26: L40-63).

(B) The Office Action fails to provide sufficient motivation for making the Schein-Gerace combination.

As to point (B), it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify and combine the teachings of **Schein** and **Gerace** to provide on the same web page a region of schedule information for non-

televised events that includes event titles for the user to select because it would allow the user to link, search, select, retrieve, initiate a subscription to and interact with information in a remote database, computer network or on-line server, e.g., a network server on the Internet or World Wide Web (**Schein**, C3: L54-60) and also enable the data assembly to customize presentation (format) of agate information, per user, for display to the user (**Gerace**, C2: L1-29).

(C) The Office Action fails to provide an adequate reason or motivation to combine Schein or Gerace with Bisdikian.

As to point (C), it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify and combine the teachings of **Schein-Gerace** and **Bisdikian** to deliver the schedule information using at least one delivery scheme from a plurality of delivery schemes consisting of continuous delivery, e-mail, pager/digital phone reminder, and pager/digital phone notification because it would allow the system to deliver/transmit the television listings, non-television-related schedule information and notifications by various communication means at convenient times (e.g., a regular time or a specified time such as whenever special events or new information are available, or an update of a stock price change) according to the user preference/profile (**Bisdikian**, C2: L19-52).

Art Unit: 2141

Examiner believes that the motivations were given above to combine **Schein** and **Gerace** in point (B) and to combine **Schein-Gerace** and **Bisdikian** in point (C) are sufficient. In addition, Examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) And *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

Moreover, the test for obviousness is not whether the features of one reference may be bodily incorporated into the other reference to produce the claimed subject matter but simply what the references make obvious to one of ordinary skill in the art.

"(T)he proper inquiry should not be limited to the specific structure shown by the references, but should be into the concepts fairly contained therein, and the overriding question to be determined is whether those concepts would suggest one skilled in the art the modification called for by the claims", *In re Bascom*, 109 USPQ 98, 100 (CCPA 1956). "What appellants overlook is that it is not necessary that the inventions of the references be physically combinable to render obvious the invention under review." *In re Sneed*, 218 USPQ 385, 389 (CAFC 1983). "The argument that one cannot bodily incorporate the two set of references because in one the speed of the air-fuel mixture is allegedly subsonic, whereas in the other it is sonic, is irrelevant. The test for obviousness is not whether the features of one reference may be bodily incorporated into another reference. Rather, we look to see whether the combined teachings render the claimed subject matter obvious", *In re Wood and Eversole*, 202 USPQ, 171, 174 (CCPA, 1979).

17. Applicant's requests for reconsideration as well as arguments filed on 09/26/2003 have been fully considered but they are not deemed to be persuasive.

18. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

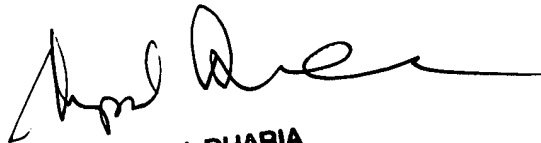
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang N. Nguyen whose telephone number is (703) 305-8190.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's SPE, Rupal Dharia, can be reached at (703) 305-4003. The fax phone number for the organization is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3800/4700.

Quang N. Nguyen



RUPAL DHARIA
SUPERVISORY PATENT EXAMINER